

FILED  
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

2011 AUG 17 A 8:18

CLERK'S OFFICE  
AT BALTIMORE

v.

BY \* DEP Criminal No. - JFM-08-0117  
\* Civil No. JFM-10-3012

CHI ANTONIO RAY

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MEMORANDUM

Chi Antonio Ray has filed this motion under 28 U.S.C. §2255. The motion will be denied.

Ray pled guilty to two crimes: armed bank robbery and use of a firearm during and in relation to a crime of violence. Judge Andre Davis sentenced him to 156 months imprisonment as to the armed robbery charge and a consecutive 84 month sentence as to the firearm charge. Ray appealed his sentence, and the Fourth Circuit affirmed.

In his present motion Ray asserts three claims relating to the finding that was made that he was a career offender and one claim relating to the sentence imposed upon him as to the firearms claim. The three claims relating to Ray's career offender status fail if for no other reason that on direct appeal the Fourth Circuit found that Ray was a career offender because his prior assault conviction constituted a crime of violence.<sup>1</sup>

Ray's fourth argument concerning the firearms charge is equally without merit. Fourth Circuit law is clear that there is no "double counting" in having a sentence imposed under the Armed Career Criminal Act and a consecutive sentence under 18 U.S.C. §924(c) for the same conduct. *See United States v. Studfin*, 240 F.3d 415, 419 (4th Cir. 2001). *See also United States*

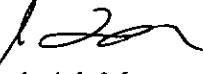
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<sup>1</sup> It is to be noted that Judge Davis actually varied under the Sentencing Guidelines to impose a total sentence of 240 months, consisting (as state above) of 156 months imprisonment as to the armed robbery charge and 84 consecutive months as to the firearm charge.

v. *Jolivette*, 257 F.3d 581 (6th Cir. 2001).

A separate order denying Ray's motion is being entered herewith.

Date: 8/16/04

  
J. Frederick Motz  
United States District Judge